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No. 97-1929

In The

Supreme Court of the United States

October Term, 1997

STATE OF MONTANA, et al.,

Petitioners,

vs.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, an agency of the United States, et al.,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

BRIEF OF *AMICI CURIAE* SUNNYSIDE VALLEY IRRIGATION DISTRICT, YAKIMA-TIETON IRRIGATION DISTRICT, KITTITAS RECLAMATION DISTRICT, ROZA IRRIGATION DISTRICT AND KENNEWICK IRRIGATION DISTRICT IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF BY SUNNYSIDE VALLEY IRRIGATION DISTRICT, KENNEWICK IRRIGATION DISTRICT, YAKIMA-TIETON IRRIGATION DISTRICT, KITTITAS RECLAMATION DISTRICT AND ROZA IRRIGATION DISTRICT

COME NOW Sunnyside Valley Irrigation District and all other irrigation districts within the Sunnyside Division of the Yakima Reclamation Project, Yakima-Tieton Irrigation District, Kittitas Reclamation District, Roza Irrigation District and Kennewick Irrigation District ("Districts") and respectfully move this Court for leave to file an *Amici Curiae* Brief in support of Petitioner's "Petition for Writ of Certiorari".[1] The Districts submit this Motion pursuant to Rule 37 of the United States Supreme Court Rules.

The Environmental Protection Agency ("EPA") and the State of Montana have consented to the filing of this Brief. The Confederated Salish and Kootenai Tribes have not consented.

The Districts divert and deliver irrigation water from the Yakima River and its tributaries for irrigation use and re-use pursuant to Washington State vested water rights and contracts with the United States Bureau of Reclamation ("USBR"). A portion of the diverted irrigation water, after use and re-use, is returned to the Yakima River or its tributaries.

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[1] No counsel for any party authored any portion of this Brief. No person or entity, other than the *amici curiae* have made a monetary contribution to preparation and submission of this Brief.

The Yakama Indian Nation has applied to EPA for treatment as a state ("TAS") pursuant to 33 U.S.C. 1377(e). Among other things, the Yakama Nation application seeks authority to regulate the entire 214 river mile Yakima River which is adjacent, for 47.1 river miles, to the eastern border of the reservation.

Although the Districts and their landowners are located outside the exterior borders of the Yakama Reservation and the Districts' diversions from, and return flows to, the Yakima River and its tributaries are all outside the exterior borders of the reservation, Yakama Nation regulation of the Yakima River adjacent to the reservation would, pursuant to *City of Albuquerque vs. Browner*, 93 F.3d 415 (10th Cir. 1996), cert. denied ___ U.S.___, 118 S.Ct. 410, 139 L.Ed.2d 314, directly, significantly, adversely impact the Districts and their landowner-waterusers' vested Washington State water rights and property.

The issues presented for review in this case relate to the erroneous policies, presumptions, procedures and standards EPA applies to determine whether or not a tribe has civil regulatory authority over non-tribal members on fee land within or outside the reservation. The effect of granting TAS status to a tribe, pursuant to *City of Albuquerque, supra*, extends tribal authority and control of non-tribal members activities, including Petitioner-Districts herein, outside the reservation. The extra-territorial effect of the tribe's "Treatment as a State" outside the reservation pursuant to the Clean Water Act will not be presented by any of the present parties and the Districts believe their briefing of the issue will significantly assist the Court.

DATED: August 24, 1998.

CHARLES C. FLOWER, WSBA #143
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Attorney for Amicus Sunnyside Valley Irrigation District

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BRIEF OF *AMICI CURIAE* IN SUPPORT OF PETITION

The *Amici Curiae* Sunnyside Valley Irrigation District and all other irrigation districts within the Sunnyside Division of the Yakima Reclamation Project, Yakima-Tieton Irrigation District, Kittitas Reclamation District, Roza Irrigation District and Kennewick Irrigation District ("Districts") through their respective counsel respectively submit a "Brief" pursuant to S.Ct.R. 37.2 in support of the "Petition for Writ of Certiorari".

INTEREST OF *AMICI*

Amici – Sunnyside Valley Irrigation District and all other irrigation districts within the Sunnyside Division of the Yakima Reclamation Project, Yakima-Tieton Irrigation District, Kittitas Reclamation District, Roza Irrigation District and Kennewick Irrigation District ("Districts") are political subdivisions of the State of Washington which operate irrigation delivery and drainage facilities within the United States Bureau of Reclamation ("USBR") Yakima Reclamation Project. ("YRP")

Five (5) USBR dams in the Cascade Mountains collect and store irrigation water (in which the Districts water users are contractee/beneficiaries) during the non-irrigation season for use and reuse in the spring, summer and early fall.

The Districts, pursuant to their waterusers Washington State vested irrigation water rights and contracts with the USBR, divert both natural flow and stored water from the Yakima River and its tributaries, and deliver the

water for the irrigation of approximately 329,150 acres within Benton, Kittitas, and Yakima Counties, Washington.

A portion of the water delivered for irrigation is, after agricultural use and reuse, collected in drains and returned as "Agricultural Return Flows" to the Yakima River or its tributaries. The eastern boundary of the Yakama Indian Reservation located in Yakima County, Washington borders the west bank of the mainstem Yakima River for 47.1 river miles between the mouth of Ahtanum Creek (Yakima River Mile 106.9) and the Mabton-Sunnyside Bridge (Yakima River Mile 59.8).

On 11/04/94, the Yakama Indian Nation filed an application with the United States Environmental Protection Agency ("EPA") for "treatment as a state" ("TAS") to develop and administer water quality standards and water quality certification programs pursuant to Sections 303c, 401 and 518 of the Clean Water Act. [11/04/94 Jerry Meninick, Chairman, Yakama Tribal Council – Chuck Clarke, Regional Administrator, EPA letter, Appendix pp. 1-8 (herein "Yakama TAS Application")].

The Yakama Nation's application requested:

* * *

> " . . . approval to develop and administer water quality standards for all waters which by the course of nature or as a result of artificial works, diversion or artificial stream flow enhancement, arise on, border, traverse or underlie the Yakama Reservation. These waters include all surface and ground waters, intermittent and ephemeral streams, springs, seeps, wetlands and

> other waters which lie within or form the exterior boundaries of the Yakama Indian Reservation." (Yakima TAS, Appendix p. [1]).

* * *

The Yakama Nation proposes to regulate the entire 214 river miles of the Yakima River from the headwaters in the Cascade Mountains to the rivers confluence with the Columbia River, not just the immediate 47.1 mile area which borders the eastern boundary of the Yakama Reservation. (Major reservation "water bodies" to be included in Yakama Nation water quality standards are identified on p. 1, Attachment to Yakima TAS Application, Appendix pp. 4-8.)

EPA precludes the Districts from objecting to, or commenting on, the Yakama's TAS application before the EPA grants TAS status to the tribe. 58 Fed.Reg. 8178 (1993).

All of the Districts are located outside the Yakama Indian Reservation's exterior boundaries. Although the Yakima River is the eastern reservation boundary, the river is *not* within the reservation. District irrigation diversions reduce the quantity of water flowing by the reservation, and irrigation "return flows" from land within the Districts may affect the water quality of the river as it flows by the 47.1 mile reservatiom "boundary" reach of the Yakima River proposed to be regulated by the Yakamas.

In *State vs. Acquavella*, Yakima County, Washington Superior Court Case No. 77-2-01484-5, a pending general adjudication of water rights in the Yakima River Basin

pursuant to RCW Chap. 90.03 and the McCarran Amendment, 43 U.S.C. 666, the Trial Court has established and limited the Yakama Nation treaty reserved water rights for both irrigation and fishery purposes. The Trial Court's "Decision" on Indian treaty reserved rights has been affirmed by the Washington State Supreme Court, *Department of Ecology vs. Yakama Reservation Irrigation District*, 121 Wn.2d 257, 850 P.2d 1306 (1993).

Although the discharge of "Agricultural Return Flows" is not a "point source" subject to regulation pursuant to the Clean Water Act (33 U.S.C. 1251, *et seq.*) [33 U.S.C. 1632(14)], each of the Districts has established water quality policies and is engaged in programs to improve the quality of water returned to the Yakima River or its tributaries after agricultural use and reuse.

The State of Washington's Department of Ecology ("DOE") has adopted water quality standards and regulations and administers a Clean Water Act "NPDES" permit system for the Yakima River and its tributaries pursuant to RCW Chap. 90.48.

City of Albuquerque vs. Browner, 97 F.3d 415 (10th Cir. 1996), *cert. denied*, ___ U.S. ___, 118 S.Ct. 410, 139 L.Ed.2d 314 (1997), held CWA regulations adopted by a tribe pursuant to its TAS status were applicable to off-reservation activities of non-tribal members. EPA granting of TAS status to the Yakama Nation for the "water bodies" requested in the Yakama TAS application will adversely, directly, significantly impact the Districts' diversion, use and reuse of irrigation water from the Yakima River.

The Ninth Circuit Court of Appeals "Decision" ratifies the EPA's practice of granting TAS status to tribes without consideration of applicable Court-established standards or limitations on tribal jurisdiction over non-tribal members and without consideration of existing water quality programs established by the states and their irrigation district, municipal and other political subdivisions. EPA's TAS policy extends beyond the authority granted by Congress to EPA in the Clean Water Act and threatens to create serious jurisdictional conflicts between federal, state and municipal agencies as well as to unlawfully destroy, diminish, impact and "take" private property without just compensation.

SUMMARY OF ARGUMENT

The "Petition for Writ of Certiorari" in this case should be granted to review EPA's implementation of 33 U.S.C. 1377(e) which erroneously presumes a tribe's inherent sovereignty to regulate non-tribal member activity and disregards substantial and significant State regulation pursuant to the CWA contrary to well-established judicial standards for determining the extent of a tribe's civil regulatory jurisdiction over non-members.

THE "PETITION" SHOULD BE GRANTED TO REVIEW AND TO CORRECT THE ERRONEOUS PRESUMPTIONS AND STANDARDS PURSUANT TO WHICH EPA REVIEWS AND GRANTS TAS APPLICATIONS.

EPA standards for granting TAS status to tribes completely disregard the holding of this Court in *Montana vs. United States*, 450 U.S. 544, 101 S.Ct. 1245, 67 L.Ed.2d 493 (1981), and the Court's recent description of limitations of tribal regulatory authority over non-tribal members in *Strate vs. A-1 Contractors*, 520 U.S. 438, 117 S.Ct. 1404, 137 L.Ed.2d 661 (1997).

When reviewing a tribe's TAS application, EPA begins with the erroneous "initial presumption" a tribe generally possesses the authority to regulate activities affecting water quality *on* the reservation. 56 Fed.Reg. 64,881 (1991).

EPA's erroneous initial presumption is then applied to EPA's policy for granting TAS status to a tribe by only requiring the tribe to:

* * *

> " . . . make a relatively simple showing of facts that there are waters within the reservation used by the tribe . . . EPA will, in light of the facts presented by the tribe and the generalized statutory and factual findings regarding the importance of reservation water quality . . . *presume that there has been an adequate showing of tribal jurisdiction* . . . unless . . . [a State] demonstrates a lack of jurisdiction on the part of the tribe." 56 Fed.Reg. 64,878 (1991) (emphasis added).

EPA's erroneous presumptions and policy for granting TAS applications are directly contrary to this Court's

following holding in *Montana* on tribal regulatory jurisdiction over non-tribal members:

* * *

> "Though *Oliphant* [*vs. Suquamish Indian Tribe*, 435 U.S. 191] only determined inherent tribal authority in criminal matters, the principles on which it relied support the general proposition that the inherent sovereign powers of an Indian tribe do not extend to the activities of nonmembers of the tribe. To be sure, Indian tribes retain inherent sovereign power to exercise some forms of civil jurisdiction over non-Indians on their reservations, even non-Indians on fee lands. . . . A tribe may also retain inherent power to exercise civil authority over the conduct of non-Indians on fee lands within its reservation when that conduct threatens or has some direct effect on the political integrity, economic security, or the health and welfare of the tribe. (Footnotes and citations omitted)." 450 U.S. at 565.

* * *

The actual presumption created by *Montana* is: a tribe has been divested of regulatory jurisdiction over non-tribal members *unless, in the CWA context,* the tribe establishes the non-tribal members' activity actually threatens or has some direct, significant adverse effect on the political integrity, economic security, health or welfare of the tribe.

This Court's "Decision" in *Strate* reaffirmed the continuing validity of *Montana*'s following actual presumption and limitation of a tribe's inherent sovereign powers:

* * *

> "Regarding activity on non-Indian fee land within a reservation, *Montana* delineated – in a main rule and exceptions – the bounds of the power tribes retain to exercise 'forms of jurisdiction over non-Indians'. *Id.*, [450 U.S.] at 565. As to non-members, we hold, a tribe's adjudicating jurisdiction does not exceed its legislative jurisdiction. Absent congressional direction enlarging tribal-court jurisdiction, we adhere to that understanding. Subject to controlling provisions in treaties and statutes and the two exceptions identified in *Montana*, the civil authority of Indian tribes and their courts with respect to non-Indian fee lands generally 'does not extend to the activities of non-members of the tribe'." Ibid. 117 S.Ct. 1413.

* * *

33 U.S.C. 1377(e) which permits EPA to grant tribes TAS status does *not* either specifically or by inference enlarge the scope of inherent tribal regulatory jurisdiction over non-tribal members on fee land.

The EPA policy for granting TAS status to tribes as well as EPA's above-described erroneous "initial presumption" upon which it is based are fatally flawed because they are based on the erroneous underlying presumption tribes possess the authority necessary to regulate non-tribal members rather than requiring a specific showing of direct, significant adverse impact on the tribe, or its members, required by *Montana* and *Strate*.

The *City of Albuquerque vs. Browner, supra* "Decision", authorizes tribal CWA regulation of non-tribal member activities *outside* the tribe's reservation, which is far in

excess of the *on-reservation* jurisdiction over non-tribal members considered and severely restricted by *Montana* and *Strate*.

Because of EPA's unwarranted extra territorial effect granted to tribal CWA regulations, this Court must, at a minimum, direct EPA to require tribes seeking TAS status establish by specific, credible evidence that EPA's failure to grant TAS status will directly, significantly, adversely affect the political integrity, economic security, health or welfare of the tribe.

The present EPA program for considering and granting TAS applications clearly fails to consider existing state and local regulations adopted pursuant to, or supplementing, the CWA in determining whether or not to grant a TAS application and, if an application is granted, the extent or scope of the tribe's regulatory authority.

Any determination of whether or not the *Montana* standards for tribal regulatory authority over non-tribal members have been satisfied must, however, consider existing state and local regulatory schemes. If existing state and local governments adequately regulate non-tribal member activities on reservation fee land and outside the reservation, there is no direct impact of non-tribal members activities on the tribe's political integrity, economic security, health or welfare and no basis for tribal CWA jurisdiction over non-tribal member activities on fee land within or outside the boundaries of the reservation.

In *Montana*, the State's prior, near exclusive regulation of hunting and fishing on fee land within the reservation was a factor considered by the Court in finding

regulation of that activity by the tribe was not required to protect the tribe's political integrity, economic security, health or welfare. 450 U.S. at 566-567.

Washington, like other states, has been actively involved in regulating and eliminating pollution causing activities pursuant to the CWA since 1973 through the enactment and enforcement of statutes and regulations. See: RCW Chap. 90.48, Washington Administrative Code Chap. 173-220 through 173-245. The substantial and significant regulatory activity of state and local governments including the Petitioner-irrigation districts herein is a factor which must be considered by the EPA in applying the *Montana* standards to determine whether or not, and to what extent, a tribe should be granted regulatory jurisdiction over the activities of non-tribal members on fee land within or outside the reservation.

CONCLUSION

The EPA erroneous policies and presumptions applied when EPA reviews and grants TAS applications pursuant to 33 U.S.C. 1377(e) which permit tribal regulation of non-tribal member activities both on fee land within and outside the reservation are contrary to this Court's well-established judicial standards for determining the extent of tribal jurisdiction over non-tribal members.

The Court is respectfully requested to grant the "Petition for Writ of Certiorari" in this case and review EPA's implementation of 33 U.S.C. 1377(e).

DATED: August 24, 1998

Respectfully submitted,

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APPENDIX

Confederated Tribes and Bands
of the Yakama Indian Nation

Established by the
Treaty of June 9, 1855

November 4, 1994

Mr. Chuck Clarke
Regional Administrator
US Environmental Protection Agency
1200 Sixth Avenue, SO-121
Seattle, WA 98101

Dear Mr. Clarke:

The Yakama Nation is in the process of developing Water Quality Standards for the Yakama Indian Reservation. Through this letter we would like to request your approval of our eligibility to administer the water quality standards and water quality certification programs under sections 303(c), 401 and 518 of the Clean Water Act.

We have previously been granted approval under the Treatment as a State process for Sections 106 and 314 of the Clean Water Act. The information submitted herein is intended to supplement the Section 106 Treatment as a State application submitted to Administrator Russell on September 6, 1989 and the Section 314 application originally submitted on February 21, 1991. As the information submitted on federal recognition and governmental duties and powers has not changed since those applications, they will not be further addressed in this letter. Supplemental information on jurisdiction and capability follows.

Jurisdictional Analysis

The Yakama Nation requests EPA approval to develop and administer water quality standards for all waters

which, in the course of nature or as a result of artificial works, diversion, or artificial streamflow enhancement, arise on, border, traverse or underlie the Yakama Reservation. These waters include all surface and ground waters, intermittent and ephemeral streams, springs, seeps, wetlands and other waters which lie within or form the exterior boundaries of the Yakama Indian Reservation. The standards will not apply to waters contained within wastewater ponds, lagoons or parts of wastewater treatment systems which are lined or constructed in such a manner that seepage into the ground or into surface waters will not occur.

Following adoption of the Yakama Nation Water Quality Standards a process will be initiated to grant water quality certifications, under guidelines established in section 401 and appropriate EPA regulations, for all waters covered under the approved water quality standards.

For purposes of these actions, the Yakama Reservation is defined to mean all lands within the exterior boundaries of the Yakama Indian Reservation as set forth in the *Treaty with the Yakamas, June 9, 1855* (12 Stat. 951, Appendix 3 – September 6, 1989 submission). These boundaries are delineated on the attached map. A list of major surface waterbodies to be covered under the Yakama Nation Water Quality Standards is also attached.

As noted above, the Yakama Nation is seeking authorization to administer the water quality standards and certification programs over all waters which arise on, border, traverse or underlie the Yakama Reservation, regardless of ownership of the land through which these waters flow or underlie. This assumption would be consistent

with the *Treaty with the Yakamas*, the Clean Water Act, and the federal and EPA Indian policies.

The legal analysis ("Analysis of Tribal Regulatory Authority over Water Pollution Sources within the Exterior Boundaries of the Yakima Indian Nation", September 6, 1989) submitted to Administrator Russell in 1989 presents the legal framework for the Yakama Nation's assertion of authority over all reservation waters. This analysis demonstrates the Yakama Nation's sovereign authority to protect the health and welfare of the Reservation population and the quality of the Reservation environment from the adverse effects of water pollution. In addition, we assert that, based on past experience and continued degradation of the quality of our reservation waters, impairment of reservation waters by both Indians and non-Indians will have a serious and substantial effect on the political integrity, economic security and the health and welfare of the Yakama Nation.

Federal environmental regulations were established to protect the public health and safety from activities which could have serious and substantial impacts to this country's citizens. More specifically, the Clean Water Act constitutes, in effect, a legislative determination that activities which affect surface water and critical habitat quality may have serious and substantial impacts. Similarly, water quality management on the Yakama Reservation serves the purpose of protecting public health and safety, a core governmental function critical to self-government and political integrity.

The Yakama Reservation lies within the Yakima and Klickitat River Basins. The quality of waters in both these

basins are impacted by agriculture, logging, grazing, residential and light industrial development and numerous other sources. These activities occur on both fee and trust lands and are conducted by both Indians and non-Indians. In addition, impacts are seldom restricted to the waters on the land parcel on which an activity occurs as water, fish, aquatic organisms, and wildlife can not recognize such property lines.

Examples of impacts to water quality on the Yakama Reservation are not difficult to site. Sedimentation and ground disturbance from logging, logging roads and associated practices have the potential to impact critical spawning beds, wetlands and native foods and medicines of great importance to the Yakama culture and the continued subsistence of the Yakama people. Degradation of wetlands, riparian habitat and meadow systems by grazing similarly impact the tribal water supply, critical aquatic life and wildlife habitat, spawning beds, fisheries habitat and native foods and medicines. Agricultural activities have introduced pesticides and fertilizers into the soils as well as into surface and ground water systems through leaching and run-off. These chemicals have been found to be accumulating in bottom sediments, spawning gravels, and fish consumed by the reservation population as well as being suspected of being transferred to birds and other wildlife through the food chain. We have recently dealt with two light industrial sites on the reservation in which drinking water supplies at several neighboring homes and a tribal longhouse have become contaminated. There are currently fourteen industries

and three cities/towns permitted to discharge waste-waters into reservation waters, thus assimilating those wastes into the reservation water system.

In none of these examples are the impacts limited to property owned by any one individual or respective of Indian and non-Indian property boundaries. Impacts to the fisheries and wildlife resources and to native foods and medicines are a direct assault on tribal culture and thus the political integrity of the Yakama Nation. Contamination of drinking water and the fish upon which many of the Yakama people rely for subsistence has a direct potential to lead to serious health impacts to the reservation population. Degradation of the quality of tribal waters also has the potential to limit uses and reduce the supply available for the economic needs of the Yakama Nation. Cumulatively, these impacts, whether caused by Indians or non-Indian and whether occurring on trust or fee lands, have the potential to cause serious and substantial impacts to the political integrity, the economic security and the health and welfare of the Yakama Nation. As such, the Yakama Nation has sufficient authority to regulate and manage water quality for all waters within the exterior boundaries of the reservation.

Tribal Capability

Previous "Treatment as a State" applications provide a background on the Nation's history in administering numerous programs. Over the last several years the Nation has continued to gain experience in natural resource management, setting an example for tribes, as well as state and federal agencies, in many areas. The

Department of Natural Resources and the Environmental Protection Program have continued to grow in size, expertise and experience, taking numerous steps to strengthen natural resource and water quality protection both on the reservation and within our ceded lands. It is under this department and program that our water quality standards and certification programs will be administered.

The implementation of our water quality standards and the issuance of 401 certifications will be the responsibility of a hydrologist/environmental scientist employed by the Environmental Protection Program utilizing funds through a Section 106 grant, supplemented by tribal funds as necessary. The position requires a minimum of a bachelor's degree in the natural or physical sciences and two years of relevant experience or a master's degree and one year of experience. This individual is selected and trained to be knowledgeable in the Clean Water Act, water quality standards and other environmental regulations. The Yakama Nation knows that these water quality standards will form the cornerstone of all water quality activities on the reservation and will place appropriate emphasis on providing support for the program and its activities.

Assistance with program implementation will come from other program and department staff, thus best utilizing the breadth of expertise employed by the Nation. The Environmental Protection Program currently employs two other water-related professionals and has four college students assisting with assessment projects during the summer. Each of these individuals are available for

consultation and input on decisions relative to the water quality standards.

The Yakama Nation also believes strongly in integrating an interdisciplinary approach to resource management. This will allow our hydrologist to consult with other hydrologists, hydrogeologists, fisheries and wildlife biologists, soil scientists, agricultural engineers, cultural specialists and other tribal experts when making decisions relative to water quality management and potential impacts to tribal resources. This approach also assists in maximizing the number of individuals aware of our regulations and thus the number available to observe and report potential violations to the standards. The experts are among the nearly 200 employees of the Department of Natural Resources and the technical staff of the Bureau of Indian Affairs, Yakama Agency. In addition, the program will be assisted by the Office of Legal Counsel, currently staffed by ten attorneys, and the other administrative/ support services provided by the Nation.

I hope that this information will be sufficient to allow you to determine our eligibility to administer the water quality standards and section 401 certification programs for the Yakama Indian Reservation. If you need additional information please do not hesitate to contact Ms. Jannine Jennings at (509) 865-5121.

Sincerely,
YAKAMA INDIAN NATION

Jerry Meninick, Chairman
Yakama Tribal Council

cc: YIN Roads, Irrigation & Land Committee
Carroll Palmer, Dept. of Natural Resources
Moses Dick Squeochs, Environmental Protection Program
Jannine Jennings, Environmental Protection Program
Betty Hamilton, YIN Office of Legal Counsel
Larry Brockman, EPA Indian Program
Marcia Lagerloef, EPA Water Quality Standards Coordinator
Rich McCalister, EPA Office of Regional Counsel

MAJOR RESERVATION WATERS TO BE INCLUDED IN YAKAMA NATION WATER QUALITY STANDARDS

(1) Yakima River

Yakima River from south reservation boundary/ Mabton – Sunnyside Bridge (RM 59.8) to the north reservation boundary/Ahtanum Creek (RM 106.9)

(2) Ahtanum Creek Basin

Ahtanum Creek
Ahtanum Creek, South Fork
Reservation Creek
Wapato Irrigation Project Waters

(3) Toppenish Creek Basin

Agency Creek
Branch Creek
Charley's Pond
Clock Creek
Corral Lake
Hunt Creek
Kingfish Creek
Latum Creek
Marion Drain
Mill Creek
Mud Lake
North Medicine Creek
Olney Lake
Rattlesnake Creek
Simcoe Creek
Simcoe Creek, North Fork
Simcoe Creek, South Fork
South Medicine Creek
Snake Creek
Toppenish Creek
Toppenish Creek, Middle Branch
Toppenish Creek, North Fork
Toppenish Creek, South Fork
Wahtum Creek

Wanity Slough
Wapato Irrigation Project Waters
White Deerk Creek
Willow Creek

(4) Satus Creek Basin
Bull Creek
Circle Lake
Cockleburr Lake
Corral Lake
Dry Creek
Dry Creek, Middle Fork
Dry Creek, North Fork
Dry Creek, South Fork
Fortyday Creek
Horseshoe Lake
Knockout Creek
Kusshi Creek
Logy Creek
Logy Creek, North Fork
Logy Creek, South Fork
Lousy Creek
McBrides's Lake
Mule Dry Creek
North Fork Logy Creek
Oak Creek
Round Lake
Satus Creek
Seattle Creek
Section Corner Creek
Shinando Creek
Slaughterhouse Lake
Spring Creek
Sumack Lake
Tadpole Lake
Teal Lake
Tenie Creek
Third Creek

Wapato Irrigation Project Waters
Warren Lake
White Fir Creek
Wilson Charlie Creek
Yatama Creek
Yatama Creek, South Fork

(5) Klickitat River Basin
Bacon Creek
Bear Creek
Bench Lake
Big Muddy Creek
Bird Creek
Bird Lake
Blue Creek
Bluff Lake
Brush Creek
Cedar Creek
Chaparral Creek
Clearwater Creek
Conboy Lake
Corral Creek
Cougar Creek
Coyote Creek
Crawford Creek
Cuitin Creek
Cunningham Creek
Dairy Creek
Dairy Creek, North Fork
Diamond Fork
Dry Creek
Elkhorn Creek
Featherbed Creek
Fish Lake
Fish Lake Stream
Fraiser Creek
Heart Lake
Hellroaring Creek

Hellroaring Irrigation Ditch
Hellroaring Irrigation District Waters
Holmes Creek
Howard Lake
Huckleberry Creek
Icksix Creek
Kinney Creek
Klickitat River from south reservation boundary/
Summit Creek (RM 37.3) to headwaters
Klickitat River, West Fork
LeConte Lake
Little Muddy Creek
McCreedy Creek
McCreedy Creek, East Fork
McCreedy Creek, Middle Fork
Meadow Creek
Mill Lake
Mirror Lake
Mosquito Creek
Mount Adams Lake
Outlet Creek
Panther Creek
Pearl Creek
Petross Creek
Pileup Creek
Piscoe Creek
Pole Creek
Potato Hill Lake
Rusk Creek
Schafer Creek
Sheep Creek
Snowplow Lake
Soda Spring Creek
Summit Creek
Surveyors Creek
Swamp Creek
Tepee Creek

Trappers Creek
Trout Creek
Twentyfivemile Creek
Two Lakes, Lower
Two Lakes, Upper
White Creek
White Creek, West Fork
Yedlick Creek